

## **MINUTES OF HARRISONBURG PLANNING COMMISSION**

**May 9, 2012**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, May 9, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Charles Chenault, Judith Dilts, MuAwia Da'Mes, Alan Finks (arrived at 7:05 p.m.), Deb Fitzgerald, and Bill Jones.

Members absent: Henry Way.

Also present: Stacy Turner, Director of Planning and Community Development; Alison Banks, Planner and Secretary.

Chairman Jones called the meeting to order and determined there was a quorum with five of seven members in attendance. He then asked if there were any corrections, comments or a motion regarding the minutes from the April 11, 2012 Planning Commission meeting.

Mrs. Fitzgerald moved to approve the minutes as presented from the April 11, 2012 regular Planning Commission meeting.

Dr. Dilts seconded the motion.

All voted in favor of approving the minutes (5-0).

### **New Business**

#### ***Alley Closing – Adjacent to 40-H-3—8 and 11 – 16 (Kin Group, LLC)***

Chairman Jones read the agenda item and asked staff to review.

Mrs. Banks said the following land uses are located on and adjacent to the property:

Site: Undeveloped City owned right-of-way.

North: Undeveloped 6<sup>th</sup> Street, professional office and vacant land, zoned M-1

East: Vacant industrial building, zoned M-1 and undeveloped lots, zoned R-2 and M-1

South: Single family dwellings, zoned R-2

West: Undeveloped building lots, zoned R-2 and M-1

The applicant is requesting to close a portion of an unimproved alley that is located between 5<sup>th</sup> Street and undeveloped 6<sup>th</sup> Street. The alleyway, which is 10 feet in width and approximately 300 feet in length, visually appears to be part of the abutting properties. There are no water, sanitary sewer, stormwater, or electric facilities located within the existing right-of-way, therefore, if City Council chooses to vacate the alley, no easements are needed to be reserved.

Kin Group, LLC, the applicant, is the owner of the 12 parcels which directly adjoin the alley. They desire to close and purchase the right-of-way in order to incorporate the area into a future R-7, Medium Density Mixed Residential Planned Community. This alleyway is one of several alleys within this area of the City that is unimproved and not maintained by the City. The City has no plans to develop the alley and does not anticipate any negative consequences from vacating the right-of-way.

Staff recommends vacating the approximately 3,000 square foot public alleyway.

Chairman Jones asked if there were any questions for staff. Hearing none, he stated this was not a public hearing; however, if the applicant or the applicant's representative would like to come forward and speak they could do so at this time.

Mr. Ed Blackwell of Blackwell Engineering said this is part of a planned development that will be coming before this body in a month or so. This is the first step and we appreciate your support on this request.

Chairman Jones asked if there was any discussion regarding the request.

Mr. Da'Mes said usually the questions we have regard who has the right to purchase what portion of the alley and do all neighbors want to purchase a portion. In this case, it is very straight forward, having only one owner. With that being said, I move to recommend approval of the alley closing.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the alley closing (5-0).

Chairman Jones said this request will move forward to City Council on June 12, 2012 with a favorable recommendation.

### ***Preliminary Plat – Campus View Apartments***

Chairman Jones read the request and asked staff to review.

Mrs. Turner said the Comprehensive Plan designates this area as Medium Density Mixed Residential. This designation states that these largely undeveloped areas continue the existing medium density character of adjacent areas, but in a different form. They are planned for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. They should be planned communities that exhibit the same innovative features as described for the low density version of mixed residential development. The gross density of development in these areas should be in the range of 4 to 12 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

- Site: Campus View Condominiums, a development planned for 167 condominium units, 47 units (and 1 clubhouse) of which have been constructed to date , zoned R-3
- North: Undeveloped land and Stonewall Heights Townhouses, zoned R-3
- East: Copper Beech, 432 apartment units plus their recreational facilities, zoned R-3
- South: Scattered single family homes in City, zoned R-3; several single family homes in county, zoned A-2
- West: The Gables townhouses, apartments and several single family homes, zoned R-3

In June 2008, this 12 acre site was approved for development as a 14 building, 167 unit condominium development (previous site plans had also received approval but the June 2008 plan is the most recent). Each unit has four bedrooms and one condominium unit functions as the complex clubhouse. Four of the fourteen buildings were completed in 2008, containing a total of 47 units

and the clubhouse. Most of these individual units have been sold. A building which was started (only the pad has been constructed) but not completed is still owned by Campus View JMU, LLC. In addition, Campus View JMU also continues to own scattered units in the finished buildings. The owners of these finished units, including Campus View JMU, comprise a homeowners association. During creation of the condominium development, phase lines were drawn, and unit owners bought into the area created by the phase line. The phase lines are not property division lines, but the proposed subdivision of the property follows the phase lines.

Davis Mill, LLC, wishes to purchase the undeveloped property and construct the remaining units (10 buildings containing a total of 120 units.). They have explained that their bank does not want to be part of the existing homeowners association and is requiring the subdivision. In addition, Davis Mill, LLC believes it would be difficult to get individual unit owners to agree to have their units encumbered by a financial obligation not directly related to their ownership. Because of this, they are seeking to subdivide the property into three lots along the phase lines used in the condominium organizational documents. Davis Mill, LLC, wishes to purchase proposed Lot 3 (undeveloped portion), of 7.035 acres and proposed Lot 2 (containing existing foundation and surrounding area), of 0.397 acres—leaving the homeowners association with proposed Lot 1 (existing four buildings and surrounding common area), of 4.601 acres. Easement agreements and cost sharing arrangements for the shared parking/access areas and utilities will be required prior to approval of a final plat.

The development as a whole meets maximum density and setback requirements. Once the proposed lot lines are inserted however, these requirements are no longer met for proposed lots 2 and 3 on an individual parcel basis. The applicants believe the proposed subdivision is the only configuration that will allow them to separate the lots for financing purposes without undue legal and financial problems. As such, the applicant has made application for seven variances with the Board of Zoning Appeals (BZA). The BZA granted all seven variances at their meeting on May 7, 2012, per the following request:

Lot 2: Variance to lot area requirement of one unit per 3,000 square feet of lot area—lot requires 36,000 square feet for the 12 unit building and contains 17,293.39 square feet; seeking a variance of 18,706.91 square feet and a reduction in the required side yard setback from 10 feet to 4.8 feet and the required rear yard setback from 25 feet to 9.97 feet.

Lot 3: Variance to lot area requirement of one unit per 3,000 square feet of lot area—lot requires 324,000 square feet for the 108 units in 9 buildings and contains 306,445.87 square feet; seeking a variance of 17,554.13 square feet and a reduction in the side yard setbacks for three buildings with the amounts of the variances ranging from 2.3 feet to 8.8 feet.

In the staff report it further discusses in some detail that even if the variances were not approved the subdivision could be approved if desired. I am not going to go into that portion of the staff report, because all the variances were approved by the BZA.

Although the site plan approved in 2008 remains valid and may continue to be used if the variances and subdivision are approved, the developer will need to do several things to proceed with development. A BMP (Best Management Practices) Maintenance Agreement for the stormwater detention basin will need to be recorded as although it was installed with the previous phase of development, it is to serve the remainder of the development as well. This agreement will include details on maintenance and reporting responsibilities. After this is done, the developer must obtain a valid Land Disturbance Permit and then Building Permits. The Subdivision Ordinance and

Design and Construction Standards Manual require that sidewalk be installed along the full street frontage of the property (along Chestnut Ridge Drive). The existing sidewalk extends along a portion of Chestnut Ridge Drive from Campus View Circle to the bus pull off. It will need to be extended to include the remaining frontage to the west of the bus pull off as well as a small section east of Campus View Circle. This sidewalk will need to be guaranteed by surety prior to final plat approval.

An additional item to note in review of the preliminary plat is that the configuration on the plat shows property boundaries at edges of parking areas and cutting through parking spaces. The current landscaping regulations, Zoning Ordinance Section 10-3-25 (3), require that in a development such as this, parking spaces be separated from all property lines by a landscaped border not less than ten feet in width or appropriate visual elements such as walls or fencing. Some of the places where these property lines abut parking spaces, a fence could be installed, although not desirable, to alleviate the violation. In other places, a property line goes between or across parking spaces where a fence would not be able to remedy the violation. Therefore, under current requirements this plat could not receive approval. However, this plat will meet requirements of the newly adopted parking lot landscaping regulations, effective September 1, 2012. Under these regulations the same ten foot landscaping border separation is required from property lines, with the exception of along adjoining lines which lie within a shared parking arrangement. The plat contains a note explaining this situation and stating the applicant is aware the final plat cannot be approved until September 1, 2012. However, the applicant had said that they really need to close on this property by the end of May so that they can get moving on this project. We are very much behind a developer being able to get going with this project; the site is left in a very disturbed manner. We have discussed with the applicant the idea of providing a surety to the City in an amount that would guarantee that a fence could be installed. If for some reason the new landscaping regulations are not placed into effect, then there would be a surety in place that would require them to establish the fence. Just establishing the fence could create some problems for the development because they would lose parking spaces; it also would not look great. So, what would happen in this situation is staff would be coming to Planning Commission with an ordinance amendment to straighten that situation out. But for administrative purposes, having the surety makes this development comply with our Zoning Ordinance requirements and to do the subdivision they must comply with the Zoning Ordinance.

What I am recommending for us to do tonight is to line through the note that states the applicant is aware the final plat cannot be approved until September 1, 2012. Mr. Blackwell and I will initial the lined note. It will be recorded in the minutes that a surety will be put in place for the fence, so that the subdivision can be final platted.

Although there are multiple unique circumstances surrounding this proposed preliminary subdivision plat, they do not keep the plat from meeting all zoning ordinance requirements and it is recommended for approval as presented.

Chairman Jones asked if there were any questions for staff.

Mr. Chenault asked if the sidewalk would extend along the entire frontage of this development once it is complete.

Mrs. Turner replied yes.

Chairman Jones said this is not a public hearing; however, I will ask the applicant or applicant's representative if they would like to speak.

Mr. Blackwell of Blackwell Engineering said this site received approval for all the requested BZA variances. I am excited to get this project finalized and the area cleaned up. I have been out to this site numerous times with City staff, or with clients trying to clean up the mess that happens when you have so much mud. I am here tonight to answer any questions you may have regarding this plat; it is a rather straight forward subdivision, now that we have the variance approvals.

Chairman Jones asked if there was any discussion or a motion on the request.

Mrs. Fitzgerald said I think it is great that we can find a way to make something happen for this project that the financial crash caused to stop in its tracks.

Mr. Chenault moved to approve the preliminary plat as presented.

Mr. Finks seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of the motion to approve the preliminary plat (6-0).

Chairman Jones said this motion carries and is approved by this body.

***Special Use Permit – 1340 North Liberty Street (AMVETS)***

Chairman Jones read the request and asked for staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as General Industrial. This designations states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

The following land uses are located on and adjacent to the property:

- Site: Fertig Cabinet Company and showroom, zoned M-1
- North: Warehouse building, zoned M-1
- East: Private Utility building (telephone exchange), vacant land, zoned M-1
- South: Rockingham County School Board transportation building, zoned M-1
- West: Across North Liberty Street, warehouse building and vacant land, zoned M-1

The applicants are requesting a special use permit per Section 10-3-97 (9) of the Zoning Ordinance to allow a charitable or benevolent institutional use within the M-1, General Industrial District. Specifically, the applicants would like to utilize the 9,800 square foot warehouse building at 1340 North Liberty Street as the post home for the American Veterans (AMVETS) Post 7. This use would include a bingo hall within a portion of the building, a tavern area and a shared kitchen. Currently, AMVETS Post 7 leases space and operates from 928 West Market Street, where the B-2 zoning of the property allows the use by right; however, they would like to purchase their own facility.

Staff does not have any concerns with establishing this type of use at this location. Planning staff met with the applicant's engineer regarding the change of use for this facility and explained that if the special use permit were approved it would generate the need for additional parking on the site.

The number of parking spaces necessary for the proposed use would likely create the need for a comprehensive site plan review of the property. Similarly this will trigger the need for other improvements such as: dedication of right-of-way, street improvements (continuation of curb and gutter and installation of sidewalk); reevaluation of water and sewer services; and possibly a Stormwater Management Plan. As well, the applicants would need to apply for a change of use permit from the Building Division. This would require that all building code regulations be met for the proposed use and any other planned renovations.

The Comprehensive Plan recognizes this area along North Liberty Street as Industrial and although zoned industrially, the industrial uses found along this corridor are not intense enough that a use such as the AMVETS would not be in concert with the surrounding uses. Staff supports this request for a charitable or benevolent use at this location.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant or the applicant's representative to speak.

Mr. Ed Blackwell of Blackwell Engineering said we have representatives from the American Veterans and the Boys and Girls Club with us tonight. We think this is a good use for this property. If you have any questions for me I would be happy to answer those now.

Chairman Jones asked if there was anyone wishing to speak in favor of the request.

Mr. Bill Carter, Executive Director of the Boys and Girls Club, said the American Vets is so important to our community. They have done some unbelievable things for the Boys and Girls Club. Last year they raised over \$8,000 dollars, through several different events, for the Boys and Girls Club. They have really generated a lot of revenue through the Boys and Girls Club bingo program and at this time we are showing a positive cash flow for the year-to-date. On behalf of the Boys and Girls Club Staff, Board, and our members that we serve, we really hope you support the American Veterans in this effort.

Mr. Butch Strawderman said he represents the American Vets. This group came to me about two years ago and we have looked at numerous site locations for them. I feel this group would benefit from purchasing a building and the current owner of Fertig Cabinet Company was generous enough to give them a substantial discount on the price, being a veteran himself. I would appreciate any favorable consideration on this matter.

Mr. Charles Carter said he is the Commander of the American Vets Post 27 and we really hope you can help us out with this building project.

Chairman Jones asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked for discussion or a motion.

Mrs. Banks said I forgot to mention during the staff report that we did receive a letter today from Rockingham County Public Schools Maintenance Department. The letter says that the Notice of Public Hearing was received and Rockingham County Public Schools have no objections to the special use permit.

Mr. Chenault said in my mind there is no question of the fine work that this organization does and the service they have provided to our Country. I think those who work with the Boys and Girls Club recognize the tremendous work that this group provides to them.

From a land use standpoint, I believe staff put it best by saying that this is not a heavily industrialized area and this use is very compatible with the existing uses around it. I believe we

approved a special use permit last year for a church just up the road from this location. With that, I move to recommend approval of the special use permit.

Dr. Dilts seconded the motion.

Chairman Jones called for a voice vote.

All voted in favor of the motion to recommend approval of the request (6-0).

Chairman Jones said this will move forward to City Council on June 12<sup>th</sup>.

### **Unfinished Business**

None.

### **Public Input**

None.

### **Report of secretary and committees**

Mrs. Banks said last month I noted that proactive zoning would focus on the Northeast area of the City; however, because of vacations and time-off for members of the planning staff, and given the fact that the Northeast area generates many violations, staff has switched areas for this month. Inspectors visited the Industrial and Technology Park sector of the City where they found zero violations. Next month zoning inspectors will visit the Northeast area.

### **Other Matters**

None.

### **Adjournment**

The meeting was adjourned at 7:35 p.m.